

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA
LAS VEGAS, NEVADA

UNITED STATES OF AMERICA,)
Plaintiff,) Case No.: 2:10-cr-00268-HDM-PAL
vs.)
MARIO LATREVIOUS JOHNSON,) MINUTES OF COURT
aka Mario Latrevious Johnston,)
Defendant.) October 4, 2010
/

PROCEEDINGS: JURY TRIAL - DAY ONE

PRESENT:

THE HONORABLE HOWARD D. McKIBBEN, SENIOR U.S. DISTRICT JUDGE

Deputy Clerk: Paris Rich Reporter: Kathryn French

Counsel for Plaintiff: Bradley Giles, AUSA and Pamela Martin, AUSA

Counsel for Defendant: James Hartsell, CJA

At 8:28 a.m., Court convenes. Government counsel is present as indicated. Also, present at Government's counsel table is Lawrence Kevin Wenko, Senior Special Agent, Federal Bureau of Investigation.

Defendant (In Custody) is present with counsel, and properly attired in non-custodial clothing for trial proceedings.

The matter is called and appearances are noted for the record. Court and counsel discuss preliminary trial matters. Counsel stipulate to procedures as recited.

Mr. Giles, on behalf of Government, presents statements as to [27] Motion in Limine. Pursuant to stipulation, Government will not move to admit any of Defendant's statements, with the exception of one statement. Mr. Hartsell, on behalf of Defendant, confirms stipulation.

Court confirms there is no objection by Defense as to the introduction of the certified search warrant cover sheet, and recites further statements. Government provides the Court with Exhibit 1 for review. Mr. Hartsell states, Defense has no objection to Government's Exhibit 1. Mr. Giles states, Government's Exhibit 1 has been redacted as to the nature of the underlying case. Court reviews and confirms.

Court discusses random draw of the jury. Counsel stipulate. Court calls for the jury.

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At 8:55 a.m., 60 prospective jurors enter the Courtroom. Court presents opening remarks. Counsel introduce themselves. Court further summarizes this action and addresses the parties prospective witnesses. Voir dire oath is administered by the clerk and 32 prospective jurors are seated.

Voir dire begins. Challenges for cause are exercised, followed by peremptory challenges. A *Batson* challenge is made by Defense and a sidebar is held. **IT IS ORDERED**, the Government's challenge is disallowed, and a strike is exercised.

Counsel stipulate, and the final jury of 12, including 2 alternates, is seated. The unseated jurors are thanked and excused.

At 10:28 a.m., the jury is sworn by the clerk, and preliminary instructions and admonitions are given by the Court. At 10:30 a.m., the jury is excused, and the Court recesses.

At 10:52 a.m., Court reconvenes in the presence of the jury. Further instructions are given by the Court.

Ms. Martin, on behalf of Government, presents opening statements.

Mr. Hartsell, on behalf of Defendant, presents opening statements.

LAWRENCE KEVIN WENKO, Senior Special Agent, Federal Bureau of Investigation, called on behalf of the Government, is sworn, examined on direct by Mr. Giles, cross-examined by Mr. Hartsell, and excused.

Government's Exhibits 1, 2, 3, 4a, 4b, 4c, and 6 are admitted into evidence.

STANLEY M. MEADOR, Special Agent, Federal Bureau of Investigation, called on behalf of the Government, is sworn, examined on direct by Mr. Giles, and excused.

Government's Exhibits 7, 8, 9, and 10 are admitted into evidence.

At 11:46 a.m., Court admonishes the jury, and the jury is excused until 1:00 p.m. this date.

Outside the presence of the jury, Court canvasses Defendant regarding his privilege against self-incrimination. Court and counsel confer regarding proposed jury instructions. Defense has no objection to Government's proposed jury instructions. Court recites further comments regarding progression of trial.

At 11:57 a.m., the Court stands at recess until 1:00 p.m. this date.

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At 1:08 p.m., Court reconvenes in the presence of the jury.

THOMAS SCOTT HENDRICKS, Special Agent, Federal Bureau of Investigation, called on behalf of the Government, is sworn, examined by Ms. Martin, cross-examined by Mr. Hartsell, and excused.

Government rests.

At 1:24 p.m., Mr. Hartsell presents oral motion for directed verdict. **IT IS ORDERED**, Defense oral motion is DENIED.

Court canvasses Defendant regarding his decision to not testify. Defendant confirms he does not desire to testify.

Counsel stipulate to Jury Instructions as presented. Jury Instructions are marked and settled.

At 1:40 p.m., Government moves to reopen its case with respect to Government's Exhibit 1. Mr. Giles recites further explanatory statements regarding valid superseding warrant.

Mr. Hartsell recites objection as to reopening of Government's case and presents further statements.

Court recites statements. Court and counsel confer.

IT IS ORDERED, Government's oral motion for reopening of its case is GRANTED. Court recites findings and further statements.

Court reviews Government's proposed Exhibit 1a. Mr. Giles states that Government will redact last page of Government's Exhibit 1a. Court confirms. **IT IS SO ORDERED**.

At 1:51 p.m., Mr. Hartsell recites oral motion for a mistrial. Mr. Giles recites responsive statements. Mr. Hartsell recites further statements. Court recites findings. **IT IS ORDERED**, Defendant's oral motion for a mistrial is DENIED. **IT IS SO ORDERED**.

At 1:59 p.m., Court stands at recess.

At 2:17 p.m., Court reconvenes outside the presence of the jury.

Mr. Hartsell states that the Defense is ready to proceed, and requests a self-defense instruction go to the jury. Court recites statements.

At 2:20 p.m., the jury reenters the Courtroom.

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LAWRENCE KEVIN WENKO, Senior Special Agent, Federal Bureau of Investigation, remaining under oath, is re-called on behalf of the Government, examined on direct by Mr. Giles, cross-examined by Mr. Hartsell, and excused.

Government's Exhibit 1a is admitted into evidence.

Court addresses the jury. The jury is admonished and excused until Tuesday, October 5, 2010 at 8:30 a.m.

Outside the presence of the jury, Court and counsel confer regarding a self-defense jury instruction.

At 2:41 p.m., Court stands at recess.

At 3:42 p.m., Court reconvenes outside the presence of the jury.

Court and counsel further confer regarding a self-defense jury instruction.

IT IS ORDERED, Court reserves on Defendant's request for a self-defense instruction. **IT IS FURTHER ORDERED**, this matter is continued to Tuesday, October 5, 2010 at 8:15 a.m. in LV Courtroom 6C before Judge Howard D. McKibben.

Defendant is remanded to custody.

At 3:53 p.m., Court adjourns.

LANCE S. WILSON, CLERK

By: /s/ Paris Rich
Deputy Clerk